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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,787	06/28/2000	Bich Nguyen	2705-125	6324

20575 7590 09/03/2004

MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND, OR 97205

EXAMINER

HALIM, SAHERA

ART UNIT PAPER NUMBER

2157

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/606,787

Applicant(s)

NGUYEN ET AL.

Examiner

Sahera Halim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the communication filed on July 14, 2004. Claims 1-21 are presented for further examination.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Krueger et al., U.S. Patent Number 5,996,022 (hereinafter Krueger).
3. Krueger discloses a method and apparatus for transmitting stored data to computer network. Krueger discloses the invention as claimed. Taking claim 1 as an

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exemplary claim, Krueger discloses a server for transmitting stored data to a network (see local server; column 3, lines 2-65), comprising: a transmit buffer for transmitting the stored data to the network (see column 4, section B); a network bandwidth monitor for monitoring a bandwidth of the network, and a transcoder for transcoding the stored data into reduced data content frames if the monitored bandwidth is less than a first preset value that increase a rate that the reduced data content frames are transmitted from the buffer over the network for the monitored bandwidth (see abstract, column 3, lines 1-44, column 6, lines 15-67).

4. As per claim 2, Krueger discloses the server of claim 1, wherein the transcoder increases the rate that the frames are transmitted above a receiver play out rate for a period of time after the monitored bandwidth of the network rises above the first preset value (see abstract, column 3, lines 1-44, column 5, line 11 to column 7, line 67).

5. As per claim 3, Krueger discloses the server of claim 1, further comprising: a redundancy encoder for redundancy encoding the transcoded data if the monitored bandwidth is less than a second preset value (see abstract, column 3, lines 1-44, column 5, line 11 to column 7, line 67).

6. As per claim 4, Krueger discloses the server of claim 3, wherein the monitoring means includes a control unit for activating the redundancy encoder when the

monitored bandwidth is less than the second preset value (see abstract, column 3, lines 1-44, column 5, line 11 to column 7, line 67).

7. As per claim 5, Krueger discloses the server of claim 4, wherein the first preset value equals the second preset value (see abstract, column 3, lines 1-44, column 5, line 11 to column 7, line 67).

8. As per claims 6-21, they do not teach or further define over the limitations recited in the claims 1-5. Therefore, claims 6-21 are rejected for the similar reasons set forth in claims 1-5, supra.

Response to Arguments

1. Applicant's arguments filed on July 14, 2004 have been fully considered but they are not persuasive.

2. The applicant argues that Krueger does not teach "network bandwidth monitor". The examiner disagrees. Krueger does teach "network bandwidth monitor" (See col. 5, lines 24 – 35 and abstract, Krueger teaches data transcoding based on the bandwidth constraints of the network and to determine the constraints of the network, the network has to be monitored).

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3. In respond to applicants arguments regarding limitation of "transcoding of stored data when the monitored bandwidth is less than a first preset value", the examiner asserts Krueger discloses this limitation (See col. 6, line 15-55, Krueger disclose that transcoding takes place based on the file formats, the size of requested data, memory capacity and **the bandwidth of the connection between the local server and the client** (bandwidth of the network). Krueger clearly has a preset value when it is determine the bandwidth constrains.).

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sahera Halim whose telephone number is (703) 305-8054. The examiner can normally be reached on M-F from 8:30-5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sahera Halim
Patent Examiner
AU: 2157

August 24, 2004



SALEH NAJJAR
PRIMARY EXAMINER